

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL NO. <u>EP-04-CR-2091KC(5)</u>
)	
NOEL CEDRO TOLENTINO,)	
)	
Defendant.)	

MOTION TO CONTINUE DEFENDANT’S SENTENCING

TO THE JUDGE OF THE HONORABLE COURT:

Comes Now the Defendant, NOEL CERDO TOLENTINO, by and through his attorney of record, FELIPE D.J. MILLAN and moves that the sentencing hearing scheduled for May 16, 2008 be continued and for grounds thereof would show the Court as follows:

I.

This case is set for a sentencing hearing on May 16, 2008 at 11:00 a.m.

II.

Undersigned Counsel filed a motion in support of the Defendant’s Motion to Withdraw his plea of guilty on May 15, 2008. It is the belief of undersigned counsel that the Court must first decide the issue of whether to allow the Defendant to withdraw his plea of guilty before proceeding to sentencing.

III.

In addition, Undersigned Counsel had extensive oral surgery on Friday, May 9, 2008. As part of his surgery Undersigned Counsel was under general anesthesia for over eight hours. As

of today's date, Undersigned Counsel has not been able to fully recover and is still unable to speak clearly since the left side of his face has swollen up. Undersigned Counsel has been advised by his physicians to be at work as little as possible and to speak as little as possible until the swelling subsides.

This motion is not made for the purpose of delay, but that justice may be served.

Prayer

Wherefore Premises Considered, Defendant prays this Honorable Court grant this motion to continue his sentencing hearing to allow the Court to rule on his motion to withdraw plea of guilt and allow Undersigned Counsel to fully recover from surgery.

Respectfully submitted,

/s/
FELIPE D.J. MILLAN
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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of May, 2008, a true and correct copy of the foregoing instrument was delivered to Ms. Brandy Gardes, Assistant U.S. Attorney, Office of the United States Attorney, 700 E. San Antonio, El Paso, Texas, 79901.

/s/
FELIPE D.J. MILLAN

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ORDER GRANTING CONTINUANCE

THIS MATTER having come before the Court on Defendant's Motion for Continuance of SENTENCING set for May 16, 2008, at 11:00 a.m., the Court, having reviewed and considered said motion, FINDS the motion is well taken and should be granted.

IT IS ORDERED that this cause is rescheduled for sentencing on

_____, 2008, at _____ a.m./p.m.

**HON. KATHLEEN CARDONE
UNITED STATES DISTRICT JUDGE**